

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JOHN F. KIRK,

8

Plaintiff,

8

V.

§

Civil Action No. 5:20-cv-1444

PENTAGON FEDERAL CREDIT UNION,

§

Defendant.

§

PENTAGON FEDERAL CREDIT UNION'S NOTICE OF REMOVAL

TO THE HONORABLE COURT:

Defendant Pentagon Federal Credit Union (“PenFed”) hereby gives notice of the removal (the “Notice”) to this Court of the case styled *John F. Kirk v. Pentagon Federal Credit Union*, Case No. 2020-CI-20357, from the 224th Judicial District Court, Bexar County, Texas, pursuant to 28 U.S.C. §§ 1441, *et seq.*, based upon the following grounds:

I. PROCEDURAL BACKGROUND

1. On or about November 18, 2020, plaintiff John F. Kirk (“Kirk” or “Plaintiff”) filed a first amended original petition in the 224th Judicial District Court, Bexar County, Texas, Cause No. 2020-CI-20357 (the “**Bexar County Amended Petition**”) against PenFed.

II. BASIS FOR REMOVAL

2. Removal is proper under 28 U.S.C. §1332 because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

A. The Amount in Controversy Exceeds \$75,000.

3. Plaintiff “seeks monetary relief over \$200,000 but less than \$1,000,000.00 including costs, expenses, pre- and post-judgment interest and attorney’s fees.” Ex. A, Bexar County Amended Petition, ¶11.

4. The amount in controversy in this dispute therefore exceeds the \$75,000.00 required for diversity jurisdiction pursuant to 28 U.S.C. §1332.

B. Complete Diversity Exists Among Parties

5. Upon information and belief, Plaintiff was a citizen of Texas when his complaint was filed and continues to be a citizen of Texas. Plaintiff states he is a citizen of Bexar County, Texas in the Bexar County Amended Petition. Ex. A, Bexar County Amended Petition, ¶1.

6. PenFed is a federally-chartered credit union with its principal place of business at 7940 Jones Branch Drive, McLean, Virginia 22102. As such, PenFed is a citizen of the Commonwealth of Virginia for purposes of diversity jurisdiction.

7. Accordingly, complete diversity exists between Plaintiff and PenFed.

III. THE REMOVAL IS PROCEDURALLY CORRECT

8. PenFed was first served with the Bexar County Amended Petition on November 30, 2020.

9. Venue is proper in this district under 28 U.S.C. §1446(a) because this district and division embrace the place in which the removed action has been pending and because a substantial part of the events giving rise to Plaintiff’s claims allegedly occurred in this district.

10. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings served upon Defendant in the state court action are attached to this Notice as Exhibit A.¹

11. Pursuant to 28 U.S.C. §1446(d), promptly after PenFed files this Notice, written notice of the filing of this Notice will be given to Plaintiff, the adverse party.

12. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice will be filed with the District Clerk for 224th Judicial District for Bexar County, Texas, promptly after PenFed files this Notice.

DATED: December 21, 2020

Respectfully submitted,

DAVIS & SANTOS, P.C.

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***Attorneys for Defendant
Pentagon Federal Credit Union***

¹ Defendant has attached the case history in the state court action and the First Amended Petition, which is the only pleading that was served on Defendant. *See* 28 U.S.C. §1446(a) (“...together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.”). While the original Petition was never served, Defendant can supplement this filing with the original Petition upon the Court’s request.

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2020, a true and correct copy of this document will be sent to the following counsel of record:

Mr. Dennis L. Richard
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Email: dennisrichardlaw@gmail.com

<hr/>	Regular Mail
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/s/ Stephanie L. Dodge
Stephanie L. Dodge